

**REMARKS**

This Amendment is filed in response to the Final Office Action mailed November 25, 2008. In this Amendment, claims 1, 7, 8 and 50 are amended, claims 60-64 are added and claims 3, 5 and 14 are canceled and claims 6, 9-13, 48, 49 and 51-59 are unchanged. Claims 15-22 remain withdrawn. Following entry of this amendment, claims 1, 6, 7-13, and 48-64 shall be pending.

In the Final Office Action, claims 1, 3, 5-14 and 48-59 have been rejected based on prior art grounds. For the reasons set forth below, these rejections are hereby traversed.

**I. REJECTIONS UNDER 35 U.S.C. SECTION 112**

The Examiner objected to claim 1, 3, 5-14 and 48-59 under 35 U.S.C. Section 112, second paragraph. First, the Examiner argues "it still is not clear how item 760 is a sensor as in fig. 7." Since this rejection is based upon Section 112, second paragraph, it is unclear what claim language the Examiner is referring to as being indefinite. While the Examiner correctly points out that the embodiment of Figure 7 illustrates a raised structure 760 housing a sensor component (e.g., a sensor electrode), the Applicant is under no obligation to claim this element. Independent claims 1 and 50 recite "sensor devices" and "sensor circuitry" respectively. Support for these terms can clearly be found in paragraph 0085 of the present Application. Therefore, the Undersigned request the Examiner provide a clear and specific basis for the nature of this Section 112, paragraph 2 rejection. The Undersigned encourages the Examiner to call him to discuss this if this matter is still not resolved to the Examiner's satisfaction.

Second the Examiner rejects use of the term gasket as used in various claims under Section 112, paragraph 2. While the Undersigned disagrees with the Examiner on this point, all claims reciting this term have been canceled in an effort solely to expedite prosecution of this Application. However, this term has been amended to

claims 60-64. Example support for use of the term gasket in these newly added claims can be found in paragraph 0083 of the published Application.

## II. REJECTIONS UNDER 35 U.S.C. SECTION 102

Claims 1, 3, 5-22 and 48-59 are rejected under 35 U.S.C. Section 103(a) as being obvious by U.S. Patent No. 6,601,440 to Chuang ("The Chuang Patent") and separately unpatentable by U.S. Patent No. 7,240,743 to Buss ("The Buss Patent"). For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

While the undersigned disagrees with the Examiner's rejection of the claims, the claims have been amended solely in an effort to expedite prosecution of this Application. The Applicant expressly reserves the right to present these claims again in a related application.

More specifically, independent claims 1 and 50 have been amended to recite a stabilizing member disposed on an external side surface of said probe body so as to minimize flow of water down said probe body, as differently recited in each claim. Support for this stabilizing member as claimed can be found, for example, with gasket 758 in Figure 7 and gasket 852 in Figure 8, as well as paragraph 0083 and 0085.

This feature is not taught in either cited reference and allows the present invention to perform functions not possible with the devices of the cited prior art. For example, the stabilizing member as claimed aids in the insertion of the probe body and further prevents the body from being pushed up and out of the soil by regular expansion cycles. Further, the stabilizing member prevents rain or other precipitation from moving directly down the side of the probe body to the sensor electrodes and therefore improves the accuracy of the moisture sensor, especially during rain or irrigation.

Thus for at least this reason, *The Chuang Patent* alone or in combination with *The Buss Patent* fails to anticipate or make obvious claim 1 and 50. Hence, for at least the above reasons, it is submitted that the dependant claims are also novel and

unobvious over the cited prior art. However, these claims further limit the claimed invention and thus are separately patentable over the cited prior art.

It should be further noted that newly added claims 60-64 recite a gasket, a tapered shape and a rubber ring as variously recited in these claims. These elements are also not found in the cited prior art and therefore the cited prior art fails to anticipate or make obvious these claims.

**CONCLUSION**

In view of the foregoing, it is submitted that pending claims 1, 6, 7-13, and 48-64 are now in condition for allowance. Hence, an indication of allowability is hereby requested.

If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any additional fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,

  
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Dated: April 24, 2009

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